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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-191011

DATE: April 18, 1978

MATTER OF: J.B.L. Construction Co., Inc.

DIGEST:

Where low bid price is approximately 28 percent lower than only other bid received and is in line with Government estimate which was reevaluated after bid opening, contracting officer was not on constructive notice of error in bid alleged after award, and contract is valid and binding on all parties.

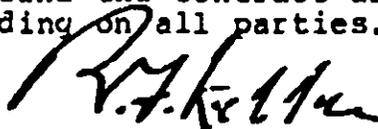
J.B.L. Construction Co., Inc. (J.B.L.), received award of Veterans Administration (VA) contract No. V631C-349 on July 15, 1977, at the award price of \$75,325. The only other bid price received was \$104,900. The Government estimate was \$77,070. Verbally on August 10 and by letter of September 21, J.B.L. requested a \$21,580 increase in the contract price on the basis that it had made various errors in the computation of its bid price. The VA has referred the question of whether the contract price may be increased to our Office.

Our Office has consistently held that the responsibility for the preparation of a bid rests with the bidder. Therefore, a bidder who makes a mistake in bid which has been accepted in good faith by the Government must bear the consequences of it unless the mistake was mutual or the contracting officer had either actual or constructive notice of the mistake prior to award. Penn Electric Motor Company, Inc., B-185703, July 9, 1976, 76-2 CPD 25. In the instant case the mistake was not mutual, and the contracting officer did not have actual knowledge of it prior to award. Therefore, the question is whether he was on constructive notice of the mistake.

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The test for constructive notice is reasonableness-- whether under the facts and circumstances of the particular case there are factors which could have raised the presumption of error in the mind of the contracting officer. Morton Salt Company--Error in Bid, B-188392, April 19, 1977, 77-1 CPD 273. In the present case the contracting officer discussed the difference between the two bid prices received with other activity personnel but decided that no reason for suspecting an error existed after a reevaluation of the Government estimate established the aforementioned figure of \$77,070. Therefore, in view of the fact that the difference between the two bid prices received was only approximately 28 percent, of the reevaluation of the Government estimate after bid opening, and of the fact that only one other bid price existed for comparison, the contracting officer was not on constructive notice of the subsequently alleged error. Anabolic, Inc., B-190342, January 26, 1978, 78-1 CPD 69.

Accordingly, we find the contract as originally awarded valid and binding on all parties.



Deputy Comptroller General
of the United States